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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 600

[Docket No. 141212999-5843-01]

RIN 0648-BE73

**Magnuson-Stevens Act Provisions; Fishery Management Council
Freedom of Information Act Requests Regulations; Technical
Amendments to Regulations**

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule; technical amendments.

SUMMARY: NMFS is hereby making technical amendments without altering the substance of the regulations governing the operation of Regional Fishery Management Councils (Councils) under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). The intent of this action is to update existing Council regulations to reflect the current procedure for processing Freedom of Information Act (FOIA) requests received by Councils. These changes will make our rules more internally consistent and easier to use.

DATES: This final rule is effective [*INSERT DATE 30 DAYS FROM DATE OF PUBLICATION IN THE FEDERAL REGISTER*].

ADDRESSES: 1315 East West Highway, SSMC3, Room # 10843, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Steven Goodman at 301-427-8732, steven.goodman@noaa.gov.

SUPPLEMENTARY INFORMATION:

Background

Recently, the Department of Commerce (DOC) published a proposed rule and a final rule in the **Federal Register** (79 FR 11025, February 27, 2014; 79 FR 62553, October 20, 2014) implementing revisions to DOC FOIA regulations. The DOC FOIA regulations were revised to clarify, update and streamline the language of several procedural provisions, including using FOIAonline, a web-based tracking and processing tool for FOIA requests. NOAA now uses FOIAonline to receive, securely manage and respond to FOIA requests submitted by the public.

NMFS has existing regulations for handling FOIA requests received by the Councils entitled "Freedom of Information Act (FOIA) requests." 50 CFR 600.155. These regulations provide that the NOAA FOIA Officer will prepare a Form CD-244, "FOIA Request and Action Record," for FOIA requests received by a Council.

Corrections

NMFS is revising regulations at § 600.155(a) and (b) to reflect the use of FOIAonline. This action specifically amends the regulations to remove the requirement to prepare a Form CD-244 and to clarify that, after FOIA requests received by a Council are coordinated with the appropriate NMFS Regional Office (Region), the Region then forwards the request to the NOAA FOIA officer who enters the FOIA request into FOIAonline. No other changes are being considered or implemented.

Classification

The NMFS Assistant Administrator has determined that this rule is consistent with the Magnuson-Stevens Fishery Conservation and Management Act and other applicable laws.

This rule has been determined to be not significant for purposes of Executive Order 12866.

This rule pertains solely to agency procedure and corrects existing regulations to reflect the current practice for processing FOIA requests received by a Council. It makes no changes to the substantive legal rights, obligations, or interests of affected parties. This rule therefore is a "rule of agency organization, procedure or practice" and is therefore exempt from the notice-and-comment requirements of the Administrative Procedure Act at 5 U.S.C. 553(b)(A).

List of Subjects in 50 CFR Part 600

Administrative practice and procedure, Confidential business information, Fisheries, Reporting and recordkeeping requirements.

Dated: September 21, 2015

Samuel D. Rauch III,
Deputy Assistant Administrator for Regulatory Programs,
National Marine Fisheries Service.

For the reasons set out in the preamble, NMFS amends 50 CFR part 600 as follows:

PART 600 -- MAGNUSON-STEVENSON ACT PROVISIONS

1. The authority citation for part 600 continues to read as follows:

Authority: 5 U.S.C 561 and 16 U.S.C. 1801 et seq.

2. Section 600.155 is revised to read as follows:

§ 600.155 Freedom of Information Act (FOIA) requests.

(a) FOIA requests received by a Council should be coordinated promptly with the appropriate NMFS Regional Office.

The Region will forward the request to the NOAA FOIA Officer to secure a FOIA number and log the request into FOIAonline. The Region will also obtain clearance from the NOAA General Counsel's Office concerning initial determination for denial of requested information.

(b) FOIA request processing will be controlled and documented in the Region. The requests should be forwarded to the NOAA FOIA Officer who will enter the request into FOIAonline. The request will be assigned an official FOIA number and due date. In the event the Region determines that the requested information is exempt from disclosure, in full or in part, under the FOIA, the denial letter prepared for the Assistant Administrator's signature, along with the "Foreseeable Harm" Memo and list of documents to be withheld, must be cleared through the NMFS FOIA Liaison. Upon completion, a copy of the signed letter transmitting the information to the requester should be posted to FOIAonline by NMFS.

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